

AMENDED IN SENATE APRIL 17, 2012

AMENDED IN SENATE MARCH 21, 2012

**SENATE BILL**

**No. 1125**

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**Introduced by Senator Hancock**

February 17, 2012

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An act to add Chapter 3.3 (commencing with Section 22120) to Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1125, as amended, Hancock. Local government contracts: seller's permits and certificates of registration.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of, tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Existing law, except under specified circumstances, prohibits the state from contracting with a vendor, contractor, or affiliate of a vendor or contractor that does not possess a seller's permit or a certificate of registration.

This bill would, except under specified circumstances, prohibit a local government entity, as defined, from contracting with a vendor, contractor, or an affiliate of a vendor or contractor that does not possess a seller's permit or a certificate of registration.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 3.3 (commencing with Section 22120)  
2 is added to Part 3 of Division 2 of the Public Contract Code, to  
3 read:

4  
5 CHAPTER 3.3. PERMIT OR CERTIFICATION REQUIREMENT FOR  
6 SELLER CONTRACTS WITH LOCAL GOVERNMENT  
7

8 22120. (a) A local government entity shall not contract for the  
9 purchase of tangible personal property from a vendor, contractor,  
10 or an affiliate of a vendor or contractor unless that vendor,  
11 contractor, and all of its affiliates that make sales for delivery into  
12 California are holders of a California seller's permit issued pursuant  
13 to Article 2 (commencing with Section 6066) of Chapter 2 of Part  
14 1 of Division 2 of the Revenue and Taxation Code, or are holders  
15 of a certificate of registration issued pursuant to Section 6226 of  
16 the Revenue and Taxation Code.

17 (b) Beginning on and after January 1, 2013, each vendor,  
18 contractor, or affiliate of a vendor or contractor that is offered a  
19 contract to do business with a local government entity shall submit  
20 to that local government entity a copy, as applicable, of that  
21 retailer's seller's permit or certificate of registration, and a copy  
22 of each of the retailer's applicable affiliate's seller's permit or  
23 certificate of registration, as described in subdivision (a). This  
24 subdivision does not apply to a credit card purchase of goods of  
25 two thousand five hundred dollars (\$2,500) or less, not to exceed  
26 seven thousand five hundred dollars (\$7,500) per year for each  
27 company from which a local government entity is purchasing goods  
28 by credit card. Each local government entity shall monitor the use  
29 of this exemption and adhere to these restrictions.

30 (c) A local government entity is exempted from the provisions  
31 of subdivision (a) if the governing body of the local government  
32 entity, or a person delegated authority by the governing body of  
33 the local government entity, makes a written finding that the

1 contract is necessary to meet a compelling local government  
2 interest.

3 *(1) In any given fiscal year, a local government entity may not*  
4 *claim an exemption from the provisions of subdivision (a), pursuant*  
5 *to this subdivision, for more than 5 percent of the total number of*  
6 *contract purchases of tangible personal property from a vendor,*  
7 *contractor, or an affiliate of a vendor or contractor.*

8 *(2) The written finding is a public record for purposes of the*  
9 *California Public Records Act as specified in Chapter 3.5*  
10 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
11 *Government Code.*

12 (d) For the purposes of this section:

13 (1) “Affiliate of the vendor or contractor” means any person or  
14 entity that is controlled by, or is under common control of, a vendor  
15 or contractor through stock ownership or any other affiliation.

16 (2) “Compelling local government interest” includes, but is not  
17 necessarily limited to, the following:

18 (A) Ensuring the provision of essential services.

19 (B) Ensuring the public health, safety, and welfare.

20 (C) Responding to an emergency, as defined in Section 1102.

21 (3) “Local government entity” means a city, county, city and  
22 county, community college district, school district, or county  
23 superintendent of schools located in California.

24 SEC. 2. If the Commission on State Mandates determines that  
25 this act contains costs mandated by the state, reimbursement to  
26 local agencies and school districts for those costs shall be made  
27 pursuant to Part 7 (commencing with Section 17500) of Division  
28 4 of Title 2 of the Government Code.